



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2258 (1940)

March 28, 1991

SUBJECT: Highly Erodible Lands and Wetland Certification

TO: State Directors, District Directors, and County
Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to insure consistency and to provide guidelines for documenting applicant compliance with the provisions of the Food Security Act of 1985 (FSA) and FmHA Instruction 1940-G, Exhibit M.

COMPARISON WITH PREVIOUS ANs:

This AN replaces AN No. 2216. Language has been added to further clarify when conservation plans are required and to provide guidance on handling borrowers in non-compliance.

IMPLEMENTATION RESPONSIBILITIES:

In accordance with FmHA Instruction 1940-G, Exhibit M, adequate documentation is required to certify applicant compliance with the Highly Erodible Land (HEL) and Wetland (WL) provisions of the FSA prior to approving FmHA assistance.

As of January 1, 1990, all farmers producing an agricultural commodity, as defined in Section 12.2 (a)(1) of Subpart A of Part 12 of Subtitle A of Title 7, which is Attachment 1 of Exhibit M, on HEL tracts must have had an approved conservation plan in place and should have started implementation of the plan. Applicants must provide to FmHA a current copy of the approved conservation plan signed by the applicant and a Soil Conservation Service (SCS) representative. Applicants that are farming and not currently indebted to FmHA and operating under an approved plan are included in this group. Additionally, all applicants must complete Form AD-1026, provided by Agricultural

EXPIRATION DATE: January 31, 1992

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1940-G



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Secretary of Agriculture, Washington, D.C. 20250

Stabilization and Conservation Service (ASCS), certifying that they are "actively applying" the conservation plan. ASCS will provide the applicant with Form AD-1026A attached to the AD-1026 to show all HEL tracts and their conservation plan status.

HEL tracts listed on Form AD-1026A will be cross checked with those of the plan for accuracy. ASCS records will be considered adequate unless there is a discrepancy in reported tracts from the plan or there is reason to doubt their completeness or accuracy. The applicant's Farm and Home Plan must be reviewed to determine if provisions for implementing the required practices are included in the plan and are feasible. Consideration must also be given to practices required in future years.

For new FmHA applicants, without a conservation plan, and existing FmHA borrowers changing their operations, Form AD-1026 must be completed by the applicant to initiate the SCS review of the new or changed fields. SCS will provide Form CPA-026 to document the presence of HEL or WL. Form CPA-026 will adequately document WL compliance. Presence of HEL on fields to be used for the production of agricultural commodities as defined above requires an approved conservation plan which will be reviewed for feasibility. If HEL is not present or agricultural commodities are not to be produced on HEL, a conservation plan is not necessary and the applicant is in compliance. Loan assistance will not be provided until this process of documentation is complete.


If an applicant is otherwise in compliance but the plan cannot feasibly be implemented, the applicant will be rejected unless SCS can revise the plan such that the farmer can then feasibly implement the required practices. At that point a new approved plan must be obtained.

ASCS and SCS will be spot checking 15 percent and 5 percent of the farmers respectively for compliance. Their sharing of data and the use of Form AD-1026 will insure that we are informed of farmers not in compliance. FmHA field officials will, in all routine loan making and supervisory visits, monitor the borrower's progress in meeting the conditions of the plan. Therefore, a copy of the current plan must be available either in the borrower's file or a County Office master file of all borrower conservation plans. If FmHA determines that a borrower is not complying with the approved plan or questions compliance, ASCS and SCS will be notified and requested to determine compliance. Borrowers found to be in non-compliance will be considered ineligible for further FmHA assistance until they are brought back into compliance. Additionally, County Supervisors will review all loans made to the borrower that were originally subject to the provisions of Exhibit M to determine if loan

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proceeds were used for any purpose that contributed to either the excessive erosion of HEL or the conversion of WL as defined in Section d. of paragraph 3 of that exhibit. If it is determined that loan proceeds were used for a prohibited activity, the affected loans will be considered to be in non-monetary default and handled in accordance with FmHA Instruction 1951-S, paragraph 1951.907 (g). ASCS will track those farmers in non-compliance.

If you have any questions, please contact Dee Cole of Farmer Programs Loan Making Division at 202-382-1632 or FTS 382-1632.



LA VERNE AUSMAN
Administrator